

No. 28 HA/63F/794.—Whereas the Governor of Haryana is satisfied that land specified below is needed by the Government, at public expense, for a public purpose namely for the construction of a road from Khabra Kalan to Chuli Bagrian road, it is hereby declared that the land described in the specification below is, required for the aforesaid purpose.

This declaration is made under the provisions of section 6 of Land Acquisition Act, 1894, to all whom it may concern and under the provision of section 7 of the said Act, the Land Acquisition Collector, Haryana, P. W. D., B. & R. Branch, Ambala Cantt., or any other special collector authorised by the Colonization Officer-cum-Special Land Acquisition Collector, Haryana, is hereby directed to take orders for the acquisition of the said land.

Plans of the land may be inspected in the office of the Land Acquisition Collector, Haryana, P.W.D., B. & R. Branch, Ambala Cantt. and the Executive Engineer.

SPECIFICATION

Name of District	Name of Tehsil	Name of village	Area in Acres	Remarks
1	2	3	4	5
Hissar	Fatehabad	Khabra Kalan	56×10×40 9×4840 5.15 acres	As demarcated at site. 420, 426, 173/56, 15, 16, 25, 188/5, 6, 15, 16, 189/20, 21, 210/2, 9, 12, 13, 18, 23, 24, 227/3, 4, 7, 14 to 17, 25, 248/5, 6, 247/1, 10, 11, 19, 20, 22, 266/2, 8, 9, 13, 18, 23, 24, 279/4, 6, 7, 14 to 16, 25, 297/5, 298/1, 278/21.
Do	Do	Chuli Bagrian	10790×40 9×4840 9.91 16400	763 to 766, 778 to 800, 33/5, 32/1, 10, 11, 20 to 22, 42/1, 2, 9, 12, 19, 22, 23, 67, 2, 3, 8, 13, 17, 18, 23, 24, 78/4, 7, 14, 16, 17, 24, 25, 103/5, 6, 15, 16, 102/11, 20 to 23, 117/1 to 4, 7, 14, 19, 151/4, 5, 7, 13, 14, 17, 18, 23, 165/2, 3, 8, 9.
		Total	9×4840 15.06 Acres	

B. K. WADHWA,

Superintending Engineer,
Hissar Circle, P.W.D., B.&R. Branch Hissar.

LABOUR DEPARTMENT

The 30th July, 1976

No. 4057-4Lab-76/22581.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workman and the management of M/s Maheshwari & Company, Private Limited, Faridabad.

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA, FARIDABAD

Reference No. 47 of 1976

between

SHRI RAMA KANT, WORKMAN AND THE MANAGEMENT OF M/S MAHESHWARI AND COMPANY, PRIVATE LIMITED, FARIDABAD

AWARD

By order No. ID/FD/756-E-75/6816, dated 13th February, 1976, the Governor of Haryana, referred the following dispute between the management of M/s Maheshwari & Company, Private Limited,

Faridabad and its workman Shri Rama Kant to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of services of Shri Rama Kant was justified [and in order? If not, to what relief is he entitled?

Usual notices of the reference having been sent to the parties, they failed to appear before me on 22nd April, 1976 despite service of such notices. It is thus obvious that the workman is not interested in pursuing the demand raised by him on the management leading to this reference and he is not entitled to any relief.

I hold accordingly and answer the reference while returning the award in these terms.

Dated 22nd April, 1976

MOHAN LAL JAIN,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 529, dated 23rd April, 1976.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

MOHAN LAL JAIN,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 3073-4Lab-76/22595.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak in respect of the dispute between the workmen and the management of M/S. Supreme Steel Rolling and Allied Industries, Bahadurgarh (Rohtak).

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, LABOUR COURT,
HARYANA, ROHTAK
Reference No. 59 of 1973
between

SHRI SITLA PARSHAD, WORKMAN AND THE MANAGEMENT OF M/S. SUPREME
STEEL ROLLING AND ALLIED INDUSTRIES, BAHADURGARH (ROHTAK)

AWARD

By order No. ID/RK/209-G-73/41334, dated 16th October, 1974, the Governor of Haryana, referred the following dispute between the management of M/s. Supreme Steel Rolling and Allied Industries, Bahadurgarh and its workman Shri Sitla Parshad to this Labour Court, in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of services of Shri Sitla Parshad was justified and in order? If not, to what relief is he entitled?

The parties put in their appearance in this Court in response to the usual notices of reference sent to them and filed their pleadings.

The workman alleged,—*vide* claim statement filed by him that the management illegally terminated his services on 5th December, 1972 in order to victimise him for his trade union activities without assigning any reason.

The management set up a plea of absence of the workman from duty from 5th December, 1972 onwards without prior permission from them and denied the allegation of the workman that his services were terminated on that date.

The workman controverted the plea of the management and reiterated the allegations made in the claim statement,—*vide* rejoinder filed by him with the result that the following issues were framed on pleas of the parties,—*vide* order dated 5th March, 1974:—

- (1) Whether the services of concerned workman Shri Sitla Parshad have not been terminated by the management and reference is therefore premature and bad in law?

(2) In case issue No. 1 is not proved as per term of reference ?

I have heard the authorised representatives of the parties with reference to the evidence led by them. I decide the issues as under :—

Issue No. 1

The management examined their Manager Shri Harbans Lal as M.W. 1 in order to prove this issue and led no other evidence. Shri Harbans Lal deposed with reference to the register of employees brought by him that Shri Sitla Parshad, workman, absented himself from duty on 5th December, 1972 and continued to be absent till 31st January, 1973 and that his name was struck off the rolls of the employees on 31st January, 1973 and was not carried on to the next month. While denying the receipt of the notice of demands directly from the workman he admitted his signatures on acknowledgement receipt W-1 at mark 'A' and conceded that no reply of the letter received by him,—*vide* acknowledgement receipt W-1, was sent to the workman. In absence of the letter received by Shri Harbans Lal,—*vide* acknowledgement receipt W-1, it has to be presumed that he received a notice of demands directly from the workman,—*vide* acknowledgement receipt W-1 and that he failed to reply the same and this circumstance led to the conclusion that the plea of the absence of the workman with effect from 5th December, 1972, now set up by the management is an afterthought and false. At any rate, the solitary oral statement of Shri Harbans Lal, Manager, can not be relied upon particularly when it stands rebutted by the testimony of Shri Sitla Parshad, workman. It was not explained as to why any of the co-workmen or any other employee of the management could not be examined in order to prove the absence of Shri Sitla Parshad and their non-examination leads to a presumption against the management that the plea put forth by them is incorrect. I thus placing no reliance on the evidence of Shri Harbans Lal and decide this issue against the management.

Issue No. 2

In view of my decision on issue No. 1, I decide this issue against the management with the finding that the workman is entitled to reinstatement with continuity of service and full back wages.

I thus answer the reference while returning the award in terms of the findings made by me.

Dated 19th March, 1976.

MOHAN LAL JAIN,
Presiding Officer,
Labour Court, Haryana, Rohtak.

No. 744, dated the 19th March, 1976

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

MOHAN LAL JAIN,
Presiding Officer,
Labour Court, Haryana, Rohtak.

The 30th July/10th August, 1976

No. 4405-4Lab-76/22575.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the management of M/s Goodyear India Ltd., Ballabgarh.

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Application No. 42/2 of 1969 under section 33-A of the Industrial Disputes Act, 1947

between

Shri D. C. Punj, workman and the management of M/s. Goodyear India Ltd., Ballabgarh.

AWARD

On a complaint made by one Shri D. C. Punj, an employee of the respondent, under section 33-A of the Industrial Disputes Act, hereinafter referred to as the Act, Shri P. N. Thukral, the then Presiding Officer

Industrial Tribunal, Haryana,—*vide* his award dated 31st March, 1970, published in *Haryana Government Gazette*, dated the 21st April, 1970, held on controversies raised by the respondent that the former was a protected workman and the termination of his services by the respondent in December, 1968, during the pendency of an industrial dispute between the parties without obtaining the prior permission of the Tribunal was not in order and that he was entitled to be reinstated with continuity of service and full back wages.

The respondent aggrieved of the award thus made by the Industrial Tribunal on acceptance of the complaint, filed a Writ Petition in the Hon'ble Punjab and Haryana High Court and the same being accepted and the award being quashed, the case was remanded for retrial with a direction to the Tribunal to afford an opportunity to the petitioner to file a fresh complaint giving details of his service carrier since his appointment and the nature of his duties performed by him while working as a shift foreman, and on the special assignment and to give an opportunity to the management to file a fresh written statement.

Shri D. C. Punj accordingly filed a fresh complaint on 17th April, 1972, in pursuance of the order of the High Court dated 2nd March, 1972, quashing the award. He alleged that he joined the service of the respondent as a workman in June, 1961, on wages of 55 paise per hour as a Tuber Operator and that he thereafter received some training and began operating the machine independently. He added that some times in January, 1962, he was asked verbally to work as Shift Supervisor and that he was required on this job to work on machine as Tuber Operator and to demonstrate and teach the new men as to how to operate the machine and that his wages were raised to Rs. 300 per mensem. He stated that after putting in 3 years service on the job of a shift supervisor on wages of Rs. 300 per mensem he was asked verbally to work as shift foreman and in this capacity he continued to train the workman as to how to operate the machine and that he in this connection had to actually work on the machine himself and demonstrate to the workmen its operation and that he was also required to fill in time sheets and charts to indicate the work performed and the output given by each workman. He thus set up a case that while working as a shift foreman he had no supervisory duty and that some times in February, 1968, he was verbally asked by the management to work on a special assignment in the main office along with other clerks where he was required to do purely clerical duty by way of checking of the time sheets, piece-rate, booking sheets, machines regarding charts, and to compare some other details with those available with the time clerk and to report any discrepancy found by him to the accounts department and efficiency department with a copy to the Production Director. He specifically gave out that no workman or employee of the management ever worked under him on 20th December, 1968, the date of termination of his services by the management, when he was working on a special assignment.

He alleged that he was a protected workman and had been recognised as such by the management and that he was a concerned workman in an industrial dispute No. 42 of 1968 pending in the Tribunal at the time of termination of his services between the workmen and the management and the later failed to obtain express permission of the Tribunal as required,—*vide* section 33 of the Act, before terminating his services and that he was thus entitled to reinstatement. He further alleged that his services had been terminated illegally in order to victimise him for his trade union activities and that such an action of the management amounted to an unfair labour practice.

The management,—*vide* written statement filed by them denied the allegation that the applicant was a workman or a protected workman or a concerned workman in industrial dispute No. 42 of 1968 and pleaded that the complaint filed by him was as such not maintainable under section 33-A of the Act. They further denied the allegation of the workman that they had contravened the provisions of section 33(3) of the Act.

In reply to the allegations made by the applicant in respect of the nature of his duties, the management stated that duties of the former in his capacity as shift supervisor were to supervise the work of the others without his being required to himself work on machines manually. The management further pleaded that the applicant Shri Punj was required to exercise general supervision and control over the supervisors of the various departments of the entire shift in his capacity as a shift foreman and his duties were thus administrative and of a higher supervisory character with powers to him to recommend leave of the workman and his transfer from one department to another and from one machine to another. The management finally averred that the complainant continued to be a shift Foreman till the date of termination of his services by them, getting a salary of Rs. 655 per mensem and that he had been given the special assignment temporarily for his checking misbooking of piece-rated operation of the workman, a highly responsible work without demoting him from his substantial job of a shift foreman involving administrative and supervisory duties.

The applicant controverted the pleas of the management while reiterating the allegations made by him in the complaint,—*vide* rejoinder filed by him, with the result that the following issues were framed on pleas of the parties,—*vide* order, dated 3rd June, 1972, with a direction that issue Nos. 1, 2 and 3 shall be treated as preliminary and decided first :—

- (1) Whether Shri D. C. Punj complainant is a workman as defined under section 2(s) of the Industrial Disputes Act, 1947 ? If so, whether he is a concerned workman ? (on complainant)
- (2) Whether the complainant is a protected workman ? (on complainant).

- (3) Whether there has been a contravention of the provisions of section 33 of the Industrial Disputes Act, 1947? If so, to what effect? (on complainant).
- (4) If issue No. 3 is proved whether the termination of the services of the complainant is justified and in order?
- (5) Relief?

I have heard the learned authorised representatives for the parties at some length with reference to the evidence led by them and seen the record. I decide the issues as under :—

Issue No. 1:

I deem it necessary to state *in extenso* the definition of the term workman as given under section 2(s) of the Act before dealing with the evidence of the parties, in order to determine as to whether the applicant satisfied the qualifications prescribed by law of a workman.

Section 2(s):

“workman” means any person (including an apprentice) employed in any industry to do any skilled or unskilled manual, supervisory, technical or clerical work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person :—

(iii) who is employed mainly in a managerial or administrative capacity; or

(iv) who, being employed in a supervisory capacity, draws wages exceeding five hundred rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.”

The applicant examined Shri R. H. Iyer, Manager Administrative of the respondent AWR (1), Shri Ran Singh, Shift Foreman of the respondent AWR (2), Shri K. Kohli, Secretary to the Personnel Manager of the respondent AWR (3) and Shri B. L. Gupta, Clerk, Labour Department of the respondent AWR (4) besides Shri Khushinder Singh his authorised representative and making his own statement. It is however interesting to note that each one of the aforesaid witnesses made admissions lending support of the pleas of the management. For instance Shri H. R. Iyer while deposing that Shri D. C. Punj was on special assignment at the time of termination of his services admitted that he used to sit in the conference room all alone and checked micromax charts and take rounds of the factory from time to time. He further admitted that Shri D. C. Punj was required to find out the difference in the supervisors bookings and the charts run on the machines a job of an experienced man and that one of the duties of the Shift Foreman was to supervise and control the activities of the supervisors and that these supervisors had to supervise the job of different workmen. He finally admitted that the Shift Foreman had to supervise the work of 10 supervisors and one supervisor looked after the work of 10 to 22 workmen.

Shri Ran Singh while deposing that he was promoted as a supervisor 4 years back and as a shift foreman 1½ years ago admitted that about 100 workmen worked under him in one shift and that there was a supervisor to exercise direct control over the workman in each department and that 5 supervisors worked under him in one shift. He admitted that he had a right to transfer a workman from one job to another and that he submitted the report of the attendance of the workman to the management and that he could allow or disallow a workman to join duties if he came late. He admitted that the workman submitted his leave application to the leave clerk who in turn sent it to him for recommendations as he thought proper to the Divisional Foreman. He admitted that a Shift Foreman fell in officers categories and his condition of service were different from those of a workman and that there was no change in the condition of service of Shri D. C. Punj, during the tenure of his special assignment. Shri K. Kohli admitted that Shri D. C. Punj supervised the work of supervisors even during the period of his special assignment and he had to check the entire work relating to the departmental time sheet made by the supervisors.

Shri B. L. Gupta proved the prescribed proformas of leave applications Exhibit A-8 to A-12 as correct and gave out that each one of these proformas borne the signatures of Shri D. C. Punj. Shri Khushinder Singh admitted that while on special assignment Shri D. C. Punj had not been given any particular designation and that there was no decrease in his wages or other benefits excepting that he was required to work for 5 days in a week during the tenure of his special assignment. Shri D. C. Punj while deposing that he had been assigned clerical duties and checking of charts and time sheets without any person being subordinate to him during the tenure of his special assignment admitted that about 60 to 70 workmen worked under him during the period of 4½ years of his service as a supervisor. He however set up a case that even though he held the job of a shift foreman for about 3¼ years before he was discharged from service, he did not hold that job at the time of termination of his services and that he on the other hand held a special assignment. This is all the evidence led by the applicant.

The management tendered in evidence the production organisation chart showing job responsibilities of a shift foreman and bearing the signatures of Shri D. C. Punj M-1, the letter of termination of his services M-2, besides two other documents M-3 and M-4 and closed their case.

Taking these documents, for consideration the production organisation chart M-1 disclosed the establishment of 4 Shift foreman under a Divisional Foreman who in turn worked under production superintendent Shri D. C. Punj has been mentioned as a shift Foreman with a special assignment and shift supervisors are shown as working under Shift foreman. Shri D. C. Punj has been described as a salaried shift foreman in the proforma Exhibit M. W. /10 and as a salaried supervisor in the proforma Exhibit M. W. /12. The applications A-8 to A-12 made by the workman bear his initials in his capacity as a Recommending Authority as deposed by Shri B. L. Gupta AWR (4).

It would thus appear that there is overwhelming evidence on record establishing that Shri D. C. Punj substantially held the job of a Shift Foreman on the date of termination of his services while discharging the duties of checking of charts etc., on a special assignment and admittedly drawing wages of more than Rs. 500. There is not an iota of evidence on record to show that he was ever demoted after he had been promoted as a Shift Foreman involving supervisory and administrative duties even according to the admission of the witnesses for the applicant and involving no manual, clerical or technical work. The pleas of the management are found established from the documents relied on by them as also by testimony of witnesses examined by the applicant and there is little doubt in my mind that the applicant did not satisfy the definition of a workman reproduced above inasmuch as he was drawing more than Rs. 500 P. M. as a shift foreman while discharging supervisory and administrative duties and that special assignment given to him temporarily for checking of charts etc., did not amount to his demotion or lowering of his position and he continued to hold a job involving supervisory and administrative duties till the date of termination of his services.

Each case has to be decided on its peculiar facts and any amount of case law not applicable to the facts of the case under decision would not hold a party relying on it. An authority reported as 1961-I-LLJ-18 relied on by Shri R. C. Sharma authorised representative for the applicant is not relevant inasmuch as checking involved in this case was of a routine and mechanical nature and the applicant in the instant case actually supervised the work of supervisors even during the tenure of his special assignment often given to shift foreman. Even assuming that he discharged some clerical duties or duties of a workman, during the period of his assignment, incidentally what, has to be seen for determining as to whether he was a workman or not are his main duties,—vide 1971-I-LLJ-400, 1970-II-LLJ-590. I thus hold that Shri D. C. Punj was not a workman within the definition of this term as given in section 2(s) of the Act.

In view of my findings made above, no other point need be discussed and the result is that the complaint brought by the applicant is unmaintainable and liable to be dismissed. I accordingly dismiss the complaint.

Dated the 30th April, 1976.

MOHAN LAL JAIN,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 554, dated the 3rd May, 1976.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated the 3rd May, 1976.

MOHAN LAL JAIN,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 4384-Lab-76/22577.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the Management of M/s. Escorts Ltd., Plant No. 1 Mathura Road, Faridabad,

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA,
FARIDABAD

Reference No. 149 of 1973

between

SHRI PRITHI PAL SINGH, WORKMAN AND THE MANAGEMENT OF M/S. ESCORTS LTD..
PLANT NO. 1, MATHURA ROAD, FARIDABAD

AWARD

By order No. ID/FD/73/175/38036, dated 6th September, 1973, the Governor of Haryana, referred the following dispute between the management of M/s. Escorts Ltd., Plant No. 1, Mathura Road, Faridabad and its workman Shri Prithvi Pal Singh to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of services of Shri Prithvi Pal Singh is justified and in order? If not, to what relief is he entitled?

The parties put in their appearance in this Tribunal in response to the usual notices of reference sent to them and filed their pleadings.

The workman filed his claim statement in consonance with the notice of demands served by him on the management, with the allegation that his services as a permanent maintenance Fitter had been illegally terminated by the management in order to victimise him for his trade union activities in his capacity as President of the Federation of Escorts Employees Registered and that the charge-sheets served on him on 3rd August, 1972, was baseless and no enquiry was held against him.

The management,—*vide* written statement filed by them while admitting the workman as a permanent Fitter on wages of Rs. 183 per mensem on the date of termination of his services, pleaded that his services had been terminated on the charges framed against him for his inciting the workers to resort to violence against the management and their officers and his using defamatory, derogatory, insulting and threatening expression against them being established as a result of the enquiry held against him according to the principles of natural justice. They denied the allegations of victimisation of the workman by them for his trade union activities and gave out that the workman failed to take part in the enquiry held against him into the aforesaid charges, despite repeated opportunities being given to him time and again and the *ex parte* enquiry had to be held against him due to his absence.

The workman filed a rejoinder while controverting the pleas of the management and giving out that the charges levelled against him did not constitute any misconduct, inasmuch as the incident occurred outside the premises of the factory and that the management declined to permit him to take part in the enquiry.

As issue in terms of the dispute referred to this Tribunal in the manner as stated above was framed,—*vide* order dated 23rd August, 1974, on pleas of the parties.

The management in order to substantiate their case examined Shri R.K. Mahajan, their Manager, Personnel and Commercial, appointed as an Enquiry Officer by them,—*vide* letter dated 21st August, 1972 for holding an enquiry into the charges framed against the workman. He deposed that he held the enquiry according to the principles of natural justice while affording full opportunity to the workman to take part in the same and that he (workman) failed to appear on 26th September, 1972, despite being directed to do so,—*vide* order, dated 11th August, 1972 and thereafter despite receipt of intimation of the dates of hearing fixed from time to time. He proved the proceedings of the enquiry Exhibit X-1 as correct including the correspondence exchanged between him and the workman and between the management and the workman. He also proved the report Exhibit X.A made by him in respect of his finding as a result of the enquiry, holding the charges fully established. He stated that the letter of dismissal, Exhibit X.D., was sent to the workman by the management. Nothing could be brought out in cross-examination of this witness to lead me to suspect his evidence or to otherwise hold him as unreliable. The suggestion made by the workman in cross-examination of this witness that he did not hold sitting in Faridabad Industries Association, is obviously an after-thought in view of the absence of such a plea in his pleadings and the statement of the workman as W.W.1 in that direction does not inspire confidence.

The workman deposed that he sent letters W-1 to W-5 to the persons to whom the same purported to be addressed and that the Security Officer shut his entries in the premises of the factory whenever he went there to attend the hearing of the enquiry. Shri Adarsh Kishore, President, General Mazdoor Union, Faridabad, examined as W.W.2 gave out that the Enquiry Officer was not found present in the premises of the Faridabad Industries Association on 20th November, 1972 at 9.30 A.M. when he accompanied the workman to that place. He admitted that he was not representative of the workman concerned in the enquiry and was not an employee of the management during the year 1972. It is thus beyond any body's comprehension as to how and in what capacity he could have accompanied the workman to the premises of the Faridabad Industries Association in th

natural course and in absence of such an explanation his statement is liable to be rejected as false on this ground as also on the ground of the absence of such a plea by the workman in his pleading.

The workman led no evidence to prove that his entry was ever shut in the premises of the factory on the dates of hearing fixed in the enquiry and his own statement in absence of any corroboration and a specific plea in this connection in the pleadings can not be relied upon.

Taking the letters W-1 to W-5, brought on record by the workman, W-1 is a letter sent to him on 7th August, 1972, by Shri K.S. Jain initially appointed as an Enquiry Officer in reply to his letter, dated 2nd March, 1972 and Exhibit W-2, W-3 and W-5 are the letters sent by the workman to the management. None of these letters obviously establishes the case of the workman that the enquiry was not held in accordance with the principles of natural justice. Letter Exhibit W-4 sent by the workman to the Enquiry Officer showing lack of confidence in him and asking for copies of certain documents, is also not sufficient to lead me to hold the enquiry as irregular or illegal, particularly when the question of supplying him the copies did not arise in view of his continued absence on the dates of hearing fixed from time to time. I am thus convinced while relying on the proceedings of the enquiry Exhibit X-1, that the enquiry was held strictly in accordance with the principles of natural justice with full opportunity to the workman to take part therein and that the later intentionally failed to do so.

There is not an iota of evidence on record for the workman that he had been unduly victimised for his trade union activities or that the order of his dismissal from service amounted to an unfair labour practice. It cannot be said either that the findings of the enquiry officer are not borne out from the evidence led by the management. The record of the enquiry well indicates that the workman intentionally failed to attend the enquiry despite being repeatedly asked by the enquiry officer to do so and the later had to proceed against him *ex parte* under unavoidable circumstances. No fault can be found out with the proceedings of the enquiry and all the essential ingredients of a fair enquiry are found established in the instant case.

The workman was charged for his having addressed a gate meeting consisting of about 300 employees, while making defamatory, derogatory, insulting remarks towards the management and his officers as under and thus inciting the workers to resort to illegal strike and violence :—

- (a) "The management have a false idea that there cannot be a strike in the company.
- (b) There is an officer who calls himself a Jat Sikh but he is a Chhimba, i.e., Dhobi. He has forgotten his own father. Does he not feel ashamed to disown his own father. If there are such officers in this company what good they can do to the company. You must have understood who is that officer. He is our Production Manager who does not know anything about machines. He is serving on 'Dhanda Bazi'. Agaraisey Production Manager ke waqt hartalna hui to phir kabhi nahi hogi. Hamne hartal karke iss bad-dimag Chhimba ko thik karna hai."
- (c) "I had in that meeting very clearly said and I repeat also again that what to talk of Mr. Nanda even if God comes we will burn him. Mr. Hakikat Singh, our Production Manager, who thinks himself 'Khuda' tells people that he is Jatt. I may tell you that Hakikat Singh zaat ka chhimba hai, dhobi hai aur woh apney baap ko bhool gaya hai. Jo baap ko chhor deye uski baat, ko koi kiya manney aur naa maney. Uska dimag kharab ho gaya hai."

The allegations against the workman in the form of charges framed against him are misconduct within the definition of this term as given in clause 21 (ii), 13, 16 of the Certified Standing Orders of the Company, Exhibit XC and render the workman liable to dismiss under clause 22 of the aforesaid orders.

Considered from any angle the order of termination of services of the workman is fully justified and he is not entitled to any relief. I thus answer the reference while returning the award in these terms.

Dated 30th April, 1976.

MOHAN LAL JAIN,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 553, dated the 3rd May, 1976.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated 3rd May, 1976.

MOHAN LAL JAIN,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.